Tafas v. Dudas et al

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EXHIBIT 11

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Public Comment Regarding: RIN: 0651-AB93: Changes to Practice for Continuing Applications, Requests for Continued Examination Practice, and Applications Containing Patentably Indistinct Claims

Date: 6/21/2007

Signer	Organization
Eduardo E. Drake	Concerned U.S. Citizen, Registered Patent Attorney

Materials provided to OMB (2 pages, 113 kb)

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June 21, 2007

Ms. Susan Dudley
Administrator of OIRA
Office of Management and Budget

VIA FAX
(202) 395-3047
Two Pages

RE: ***RIN: 0651-AB93***: Changes to Practice for Continuing Applications, Requests for Continued Examination Practice, and Applications Containing Patentably Indistinct Claims.

Ms. Dudley:

I'm a patent attorney in one of the leading intellectual property law firms in the nation. I'm writing today to gain your support in prevent the Patent Office from implementing new rules *RIN: 0651-AB93,* which take away rights of American businesses, entrepreneurs, and innovators to invest in patent protection for their inventions.

Patents and intellectual property generally are more important today than they have ever been in all of human history. Studies conducted by organizations, such as the Brookings Institution, have shown that the vast majority of the value of American knowledge-based businesses is made up of intangible assets, such as patents, trademarks, and copyrights. Intangibles are critical to the wealth of American businesses and thus the wealth of our nation. As global trends of outsourcing continue and manufacturing and service sector jobs migrate to regions of the world with lower labor rates, our ability to grow the wealth of the nation will depend more than ever on our ingenuity. In this new and challenging flat world, Americans are rising to the occasion and innovating at unprecedented rates. To confirm this, just ask the U.S. Patent Office: They have reams of data on the increases in patent filings.

Unfortunately, rather than viewing the increased filings as evidence of the strong and quickening pulse of America ingenuity, the Patent Office is viewing the increased filings as re-work. Seeking to curb these filings, the Patent Office has proposed rules (RIN: 0651-AB3) to take away innovators' rights to invest in continuation applications, a tool used by businesses —both large and small, established and emerging— to bolster patent protection for their most valuable innovations, the ones most likely to be knocked off. If allowed to stick, the new rules ultimately limit the ability of America to protect the wealth of our nation.

In vying to limit this form of added patent investment, the Patent Office trumpets that the change will help reduce the backlog of pending patent applications by slowing its growth. However, the growth of the backlog isn't the problem; the backlog is evidence of a vigorous army of innovators, entrepreneurs, and businesses knocking hard on the door of opportunity. The real problem is that the Patent Office hasn't sufficiently increased its capacity to service the American people and our demonstrated eagerness to not only innovate, but invest in protecting these innovations.

The Patent Office trumpets additionally that examination of continuation applications is a waste of resources that could be applied to other patent applications. But, this bureaucratic thinking ignores the real-world reality that filing a continuation application is an added investment in a given technology and that such investment signals the value of that technology. It makes perfect sense that more Patent Office resources should be expended to protect innovations with higher value—especially, when those resources are being directed and funded by those best situated to understand the value of their technology—American innovators, entrepreneurs, and businesses.

Letting the Patent Office bureaucracy, well-meaning as it may be, decide when further investment in patent protection is warranted is the wrong way to encourage innovation and wealth creation in our country. Who's a better judge of how to invest their business resources: the Patent Office or American innovators that have created the wealthiest nation on earth?

In closing, I urge you, a person with common sense and substantial influence, to stand up and say: Wait a minute! The Patent Office's job isn't to second guess the business decisions of paying customers, but rather to do everything that it can to serve the spirit of American ingenuity and entrepreneurship that drives our common prosperity. Please contact me at edrake@slwk.com or 612-349-9593 if I can be of further service in adding to your thinking on this proposed rule change.

Respectfully submitted,

Eduardo E. Drake
Concerned U.S. Citizen, Registered Patent Attorney